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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,400	02/12/2002	Robert E. McCoy	P/79-3	7034

7590 09/10/2004

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EXAMINER

GANTT, ALAN T

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,400

Applicant(s)

MCCOY, ROBERT E.

Examiner

Alan T. Gantt

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3 and 4 is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fleisher.

Regarding claim 1, Fleisher discloses a web-based measurement of advertising success that involves a navigable computer web site that includes an information storage and retrieval means linked to the computer site. An associated magazine displays promotions of various products and services. Each promotion has a unique program identifier associated with the promotion product or service. The user inputs into his computer the unique identifier relating to the particular promotion from the **printed publication** to access further information on the product. Details of the reader's access of that further information regarding the promotion are input to a data following entry of an appropriate personal identifier. This allows an advertiser placing a promotion to obtain real time feedback of the successful or otherwise of a promotion in quantitative terms (Abstract). Thus, Fleisher discloses:

a system for capturing and/or verifying convergence traffic driven to a web via non-web technologies comprising;

a transmitter source that has a sub carrier that is an identifier for a media source and all related advertisements; (paragraph 0048 - the computer is the

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transmitter source and the web address and the unique identifier, as the sub-carrier, that takes the user to the promotion site within the web site)

a receiving interface device which captures said media source that is actively being consumed by an occupant tuned to said source. (paragraphs 0048 and 0049 and Figure 1 [web number and web article after refs. 12 and 32])

Allowable Subject Matter

Claims 3 and 4 allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 3 and 4, a device for and a method of placing a sideband signal or digital tag or watermark signal to each piece of content as related to capturing and / or verifying convergence traffic driven to a web site via non-web technologies was neither found, suggested, nor made evident by the prior art.

Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 2, a transmitter source as a satellite or antenna which has a sub-carrier signal that identifies the non-web media source and all related advertisements was neither found, suggested nor made evident by the prior art.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kamada et al. discloses a method and device for obtaining audience data by using a television set with an Internet connection function at the viewer.

Gardner, Sr. discloses an automated system and method for tracking on line activity to initiate an information source which allows the evaluation of the effectiveness of advertisements directing consumers to sites on the Internet.

Any inquiry concerning this communication from the examiner should be addressed to Alan Gantt at telephone number (703) 305-0077. The examiner can normally be reached between 9:30 AM and 6 PM within the Eastern Time Zone. The group FAX number is (703) 872-9306.

Any inquiry of a general nature or relating to this application should be directed to the group receptionist at telephone number (703) 305-4700.

Alan T. Gantt
Alan T. Gantt

September 3, 2004

Nick Corsaro
NICK CORSARO
PRIMARY EXAMINER